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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Perkins Coie LLP P.O. Box 1208 Seattle, WA 98111-1208				
EXAMINER				
BILGRAMI, ASGHAR H				
ART UNIT		PAPER NUMBER		
2443				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/981,343

Applicant(s)

MOWAT, J ERIC

Examiner

ASGHAR BILGRAMI

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 8-19, 21-33, 37, 39-46, 49, 51, 52, 57, 59-63 and 65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-19, 21-33, 37, 39-46, 49, 51, 52, 57, 59-63 and 65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4, 6, 8-19, 21-33, 37, 39-43, 45, 49, 51, 52, 57, 59-63 & 65 are rejected under 35 U.S.C. 102(e) as being anticipated by Jungck et al (U.S. 7,032,031).
2. As per claims 1, 15, 23, 26, 31, 32, 37, 41, 42 & 49 Jungck disclosed a network proxy caching device to operate within a defined cache hierarchy on a network (col.6, lines 57-67 & col.7, lines 1-6), the caching device comprising: a cache to store content from an origin server on the network; an application to receive a request for content from a client via the network (col.7, lines 39-46) {Figure 6 shows elements 108 & 110 as origin servers and elements 604, 114, 304 as cache servers}, and to forward the request on the network based on a set of forwarding rules in the event of a cache miss (col.5, lines 43-56); a user interface to enable a user to specify and modify the set of forwarding rules; a rule encoder to encode into a uniform syntax forwarding rules specified by the user (col.41, lines 19-23) {Jungck discloses that the rule sets can be reset or re-defined through a management interface}.; a rules database (col.41, lines 15-16){ Jungck discloses a library of "rule sets" A.K.A database} to store the encoded

forwarding rules (col.41, lines 6-30) {Jungck defines these as "rule sets" that can be applied to the requests} ; a rule evaluator to evaluate the set of forwarding rules (col.39, lines 34-39) sequentially in response to the cache miss, to identify a rule in the set of forwarding rules which applies to the request, by identifying a correspondence between a variable in the request and a variable in the rule, the rule specifying a host within the cache hierarchy as a forwarding destination for the request (col.25, lines 1-38); and a rule engine to determine an availability of the host and to select the host as said forwarding destination for the request if the host is available, the rule engine further to indicate the host to the application layer if the host is available, such that the application layer forwards the request to the host upon successfully establishing the connection (col.14, lines 27-53) wherein if the application layer is unable to forward the request according to the rule, the rule evaluator resumes evaluating the set of forwarding rules to identify another rule corresponding to the request (col.24, lines 45-67).

3. As per claims 2, 16, 40 & 51 Jungck disclosed a device as recited in claim 1, wherein the user may specify one or more of the forwarding rules to indicate a manner of forwarding the request within the forwarding hierarchy (col.2, lines 15-23).

4. As per claims 3, 17, 24 & 52 Jungck disclosed a device as recited in claim 2, wherein the forwarding hierarchy is a cache hierarchy (col.7, lines 2-6).

5. As per claims 4, 18, 19 & 25 Jungck disclosed a device as recited in claim 3, further comprising a cache to store content requestable by a client on the network, wherein the request processing unit forwards the request only in the event of a cache miss, wherein the request is a request for content on the network (col.24, lines 45-67).

6. As per claims 6, 21, 27 & 28 Jungck disclosed an intermediary network node as recited in claim 26, wherein the rule evaluator identifies the rule, which applies to the request by determining that a condition in the rule is satisfied (col.39, lines 34-44).

7. As per claims 39 Jungck disclosed a method as recited in claim 37, further comprising, if said attempting to establish the connection is unsuccessful: determining whether a second available host is indicated in the rule, and if so, attempting to establish a connection to the second available host; and forwarding the request to the second available host (col.25,lines 23-40).

8. As per claims 8, 33, 29 & 53 Jungck disclosed a device as recited in claim 1, wherein said rule comprises a plurality of destinations, and wherein the rule engine selects a destination from among the plurality of destinations as a forwarding destination for the request, based on the delivery factor included in the rule (col.25, lines 1-40).

9. As per claim 9 Jungck disclosed a device as recited in claim 1, wherein the at least one delivery factor comprises a specified distribution method for the request (col.32,lines 19-49).

10. As per claim 10 Jungck disclosed a device as recited in claim 1, wherein the at least one delivery factor comprises an indication of a current load on at least one of the destinations (col.13,lines 66-67 & col.14, lines 1-6).

11. As per claim 11 Jungck disclosed a device as recited in claim 1, wherein the at least one delivery factor comprises a weighting of the plurality of destinations indicating a preferred distribution of forwarding requests between the plurality of destinations (col.46, lines 65-67 & col.47, lines 1-19).

12. As per claims 12, 13, 14, 16, 22, 30, 43 & 57 Jungck disclosed a device as recited in claim 49, wherein the user interface is further to enable the user to modify the set of forwarding rules, to specify a sequence in which the rules of the set of forwarding rules are evaluated, to selectively enable or disable a default forwarding rule (col.41, lines 6-30).

13. As per claim 59 Jungck disclosed a device as recited in claim 1, wherein the delivery factor comprises an indication of a link bandwidth between the request

processing unit and the destination processing unit (col.47, lines53-67 & col.48, lines 1-9).

14. As per claims 60-63 & 65 Jungck disclosed a network caching device as recited in claim 32, wherein the delivery factor comprises at least one of: a specified distribution method for the request; an indication of current load (col.13,lines 51-66); a weighting indicating a preferred distribution of forwarding requests; or an indication of a link bandwidth (col.47, lines53-67 & col.48, lines 1-9) .

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 44 & 46 rejected under 35 U.S.C. 103(a) as being unpatentable over Jungck et al (U.S. 7,032,031 B2) and Guenther et al (6,134,588).

17. As per claims 44 & 46 Jungck disclosed a device as recited in claim 1. However Jungck wherein the request processing unit is further to use time out period in attempting to establish a connection with the forwarding destination, the time out period having been computed based on information indicative of a responsiveness of the forwarding destination. In the same filed of endeavor Guenther disclosed wherein the

request processing unit is further to use time out period in attempting to establish a connection with the forwarding destination, the time out period having been computed based on information indicative of a responsiveness of the forwarding destination (col.5, lines 44-59).

It would have been obvious to one in the ordinary skill in the art the time the invention was made to have incorporated a timeout period in attempting to establish a connection with the forwarding destination as disclosed by Guenther in the rules engine of the caching device as disclosed by Jungck in order to make the caching device more resilient resulting in robust connectivity with available servers providing information to the caching device.

Response to Arguments

18. Applicant's arguments with respect to claims 1-4, 6, 8-19, 21-33, 37, 39-43, 45, 49, 51, 52, 57, 59-63, 66 and 44, 46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASGHAR BILGRAMI whose telephone number is (571)272-3907. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia L.M. Dollinger can be reached on 571-272-4170. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. B./
Examiner, Art Unit 2443

/Tonia LM Dollinger/
Supervisory Patent Examiner, Art Unit 2443